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09/975,120	10/09/2001	Joseph Frank Brilando	035820-0006CON	3529

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SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
ATTN: JAN STEELE  
525 UNIVERSITY AVENUE  
SUITE 1100  
PALO ALTO, CA 94301

EXAMINER

WASYLCHAK, STEVEN R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/975,120

**Applicant(s)**

BRILANDO, JOSEPH FRANK

**Examiner**

Steven R. Wasylchak

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-14 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chodak et al. (US4,363,489).

**CLAIMS:**

1. A computerized method for managing the level of a company's share price, the company having a budget with budget items, and a plan for its operations, the method comprising the steps of:

- (a) receiving data representing a plurality of factors that affect the level of the company's share price;/ abstract; col 1, L 39-57; col 3, L 38-64
- (b) analyzing the data to estimate the absolute or relative influence of

at least two of the factors on the level of the company's share price;/ col 3, L 38-64

(c) generating an estimate of how changes in at least two of the factors would affect the company's share price; and/ col 3, L 14-64 (estimate in the form of a price trend caused by the factors)

(d) making changes in one or more of the company's budget items and/or plans in accordance with the estimate of step (c) to manage the level of the company's share price./col 1, L 37-64

2. The method of claim 1 wherein the estimate of the step (c) is in the form of a trade-off table or matrix./ col 3, L 50-64

3. The method of claim 1 wherein the factors include company-specific share price drivers./ col 3, L 14-64

4. The method of claim 3 wherein the company specific share price drivers include one or more of the company's:

(a) current share price;

(b) past share price;

(c) return on net assets or similar return on investment ratio;

(d) earnings per share;

- (e) cash flow;
- (f) revenue growth rate;
- (g) earnings growth rate;
- (h) budget;/ col 3, L 37-50**
- (i) operations plans;
- (j) market share;
- (k) mix of business; and
- (l) capital structure.

5. The method of claim 1 wherein the factors include investment and macroeconomic factors./ col 3, L 38-43; col 6, L12-18

6. The method of claim 5 wherein the investment and macroeconomic factors include one or more of

- (a) share prices of peer companies;
- (b) level of one or more stock index;/ col 6, L 19-53**

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- (c) interest rates;
- (d) GDP growth rate;
- (e) consumer confidence levels;
- (f) third party forecasts; and
- (g) key relevant currency exchange rates and futures.

8. The method of claim 1 wherein the step (a) is performed at a database, data warehouse, or data mart./col 9, L 60

9. The method of claim 1 wherein the step (b) is performed though the use of a statistical factoring method./col 4, L 29-34 (n!)

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chodak et al. (US4,363,489) and in view of Hartnett (6,112,188).

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CLAIMS:

7. The method of claim 1 further comprising the steps of:

(a 1) selecting a subset of the data received; and/col 6, L 19-53

(a2) Chodak et al. does not explicitly disclose dynamically sampling the selected data. However, Hartnett discloses dynamically sampling the selected data./ col 31, L 65 to col 32, L 25 (asset are be stocks that comprise the above stock index). It would have been obvious to one of ordinary skill in the art to use this limitation of disclosing dynamically sampling the selected data for the advantage of being efficient in terms of time and cost by sampling only a portion of the stocks comprising the stock index population.

10. The method of claim 1 wherein the step (b) is performed though the use of linear regression analysis. However, Hartnett discloses wherein the step (b) is performed though the use of linear regression analysis./ col 3, L 14-37 ( trend is the result of inherent linear regression analysis ). It would have been obvious to one of ordinary skill in the art to use this linear regression analysis for the advantage of being efficient in terms robust sampling.

11. Chodak et al. does not explicitly disclose the method of claim 1 wherein the step (b) is performed though the use of non-linear regression analysis.

However, Hartnett discloses wherein the step (b) is performed though the use of non-linear regression analysis./ col 41, L54-55 (the Poisson has the exponential  $e$  to the power of minus  $u$  which is obviously nonlinear). It would

have been obvious to one of ordinary skill in the art to use this from of non-linear regression analysis for the advantage of being efficient in terms robust sampling.

12. Chodak et al. does not explicitly disclose the method of claim 1 wherein the step (b) performed though the use of binomial analysis. However, Hartnett discloses wherein the step (b) performed though the use of binomial analysis/ col 41, L54-55. It would have been obvious to one of ordinary skill in the art to use this binomial analysis for the advantage of being efficient in terms robust sampling.

14. Chodak et al. does not explicitly disclose the method of claim 1 wherein the step (e) comprising the step (e) of periodically repeating the steps (a) - (d) to reduce volatility of the company's share price. However, Hartnett discloses step (e) comprising the step (e) of periodically repeating the steps (a) - (d) to reduce volatility of the company's share price./ claim one of Hartnett. It would have been obvious to one of ordinary skill in the art to use this the step (e) of periodically repeating the steps (a) - (d) to reduce volatility of the company's share price for the advantage of being efficient in terms robust sampling.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chodak et al. (US4,363,489) and official notice.

CLAIM:

13. Chodak et al. does not explicitly disclose the method of claim 1 wherein the step



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(b) is performed through the use of fractal dimensional analysis.

Official notice is taken that this feature is of fractal dimensional analysis old and well known in the mathematical art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature of the step (b) is performed through the use of fractal dimensional analysis for the advantage of a more robust price by utilizing the micro-edges of price spikes up or down for a more detailed analysis.

This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



1/20/05

VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

